



**AND**, because the court is raising the issue sua sponte, it being appropriate to give both parties the opportunity to be heard on the issue, particularly in light of the recent Court of Appeals' decision in Great Western Mining & Mineral Co. v. Fox Rothschild LLP, 2010 WL 3035466 (3d Cir. Aug. 5, 2010);

It is hereby **ORDERED** that:

1. Oral argument on the issue whether this adversary proceeding should be dismissed without prejudice for lack of subject matter jurisdiction is **SCHEDULED at 1:00 p.m. on October 13, 2010, in Bankruptcy Courtroom No. 1, U.S. Courthouse, 900 Market Street, Philadelphia, PA.**
2. Any memoranda of law the parties choose to file, shall be filed **on or before October 4, 2010.**



**Date: September 13, 2010**

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**ERIC L. FRANK**  
**U.S. BANKRUPTCY JUDGE**

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<sup>2</sup>(...continued)

Proof of Claim of Warren Simons filed by a related debtor, Venom, Inc. (See Bky. No. 09-10445, Doc. # 290). In their Memorandum of Law in Opposition to Plaintiff's Motion for Partial Summary Judgment at 21-22, the Defendant asserted that the Rooker-Feldman doctrine court precludes the court from disallowing his claim in the Venom bankruptcy case. The Defendant did not raise the issue more generally with respect to adversary proceeding. However, that is immaterial. This court has the independent duty to consider its subject matter jurisdiction and to consider sua sponte, if necessary, whether subject matter jurisdiction exists. See, e.g., Nesbit v. Gears Unlimited, Inc., 347 F.3d 72, 76 -77 (3d Cir. 2003), cert. denied, 541 U.S. 959 (2004). Here, I am raising the Rooker-Feldman issue sua sponte.